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10/689,591

10/22/2003

Sundari Pokta

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EXAMINER

CUMARASEGARAN, VERN

ART UNIT

PAPER NUMBER

3629

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                       |                                       |  |
|------------------------------|---------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/689,591  | <b>Applicant(s)</b><br>POKTA, SUNDARI |  |
|                              | <b>Examiner</b><br>VERN CUMARASEGARAN | <b>Art Unit</b><br>3629               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Justice (2001/0049630).

**As to claim 1**, Justice shows setting up a system server and running a system program on the server (paragraph 19);

installing and running a client program on said user's network access device (paragraph 20);

recording data of usage of said products/services by said user, the data comprising time spent on providers' sites (paragraph 67);

distributing calculated payments to said providers (Fig.1).

Although Justice shows calculating payment distribution to those providers provided products/services to said user over the billing period (paragraph 23), Justice does not expressly show calculating payment distribution by dividing the user's fee into shares among them generally according to the usage element associated with each provider in relation to the total usage element associated with all providers in the same embodiment. However, Justice show dividing the user's fee into shares among them generally according to the usage element associated with each provider in relation to

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the total usage element associated with all providers in a different embodiment (paragraph 89). It would have been obvious to one of ordinary skill in the art to incorporate both method into one invention since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**As to claims 2 - 7**, Justice shows recording data on network access device if user bypasses the system server (paragraph 67) and recording data on system server if user uses said products/services via the system server (paragraph 78) and payment distribution being calculated by system server and network access device (paragraph 78).

**As to claims 8**, Justice inherently shows the distributed payments summing up to the user's fee (paragraph 73).

**As to claims 9 and 10**, the recited formula results in allocating payments based on usage element of use by users for providers. Justice shows operators serving more users receiving higher portion of the fee (paragraph 89).

**As to claims 11 and 12**, Justice shows integrating the calculated payments in relation to all the users (paragraph 89) and being distributed by system server (paragraph 78).

**As to claim 13**, Justice shows data consolidated by network access device during a predetermined interval (paragraph 78).

**As to claim 14**, Justice shows transmitting the payment distributions from the network access devices to system server for integration (Fig.1).

**As to claim 15-18**, examiner takes **official notice** that it is old and well known in the art to transfer data over a predetermined interval. For example, billing information for mobile phone usage is sent to the customer over a predetermined interval such as one month. Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the method of data transfer over a predetermined interval since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**As to claims 19-21**, examiner takes **official notice** that it is old and well known in the art to set a range where shares not falling within the range would initiate a separate action than the shares falling within the range. For example, taxes paid by an individual would be determined based on where in the income range one's income falls. Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the method of setting a range since the claimed invention is merely a combination of old elements and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**As to claim 22**, Justice shows setting up individual accounts (abstract).

**As to claim 23**, Justice shows the distribution method set up and operated by operators (paragraph 104).

### ***Response to Arguments***

Applicant's arguments filed October 24, 2008 have been fully considered but they are not persuasive. Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERN CUMARASEGARAN whose telephone number is (571)270-3273. The examiner can normally be reached on Monday - Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. C./

Examiner, Art Unit 3629

/John G. Weiss/

Supervisory Patent Examiner, Art Unit 3629